

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

JAMES LYNN HILL,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CIV-07-404-M
	)	
OFFICER TRUELOVE, et al.,	)	
	)	
Defendants.	)	

**ORDER**

On September 16, 2009, United States Magistrate Judge Valerie K. Couch issued a Report and Recommendation in this action brought pursuant to 42 U.S.C. § 1983, alleging violations of plaintiff's constitutional rights. The Magistrate Judge recommended that defendants' motion for summary judgment be denied. The parties were advised of their right to object to the Report and Recommendation by October 6, 2009. On that date, defendants filed their objection, and on November 9, 2009, plaintiff filed his memorandum in opposition to defendants' objection.

In their objection, defendants contend that the Magistrate Judge erred when recommending the denial of qualified immunity and the denial of summary judgment on plaintiff's excessive force claim. Defendants assert that they did not violate plaintiff's constitutional rights and no evidence exists to support such an allegation. Having carefully reviewed this matter de novo, the Court finds that the Magistrate Judge did not err in concluding that there are genuine issues of material fact regarding the amount of force used, the actions of plaintiff which may have contributed to the amount of force used, and whether the force used was reasonable. The Court, consequently, finds that the Magistrate Judge did not err in her recommendation that defendants are not entitled to qualified immunity and that summary judgment should be denied.

Accordingly, the Court:

- (1) ADOPTS the thorough and well-reasoned Report and Recommendation issued by the Magistrate Judge on September 16, 2009, and
- (2) DENIES defendants' Motion for Summary Judgment [docket no. 98].

**IT IS SO ORDERED this 13th day of November, 2009.**

  
VICKI MILES-LAGRANGE  
CHIEF UNITED STATES DISTRICT JUDGE